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Third session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 72nd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 28 January 1993, at 10 a.m.

Chairman: Mrs. BADRAN

CONTENTS

Follow-up to the general discussion on "Children in armed conflicts" (continued)

Preparatory activities relating to the World Conference on Human Rights (continued)

Future studies (continued)

* The summary record of the second part (closed) of the meeting appears as document CRC/C/SR.72/Add.1.

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The meeting was called to order at 10.30 a.m.

FOLLOW-UP TO THE GENERAL DISCUSSION ON "CHILDREN IN ARMED CONFLICTS" (agenda item 7) (continued)

1. Mrs. SANTOS PAIS said that she had prepared a summary of the conclusions reached during the discussion of the item in closed session when the Committee had considered the findings of its working group.

2. The Committee had felt that the item should be taken up at a future meeting, especially in the light of the new information contained in reports of States parties. However, as an immediate step a recommendation should be made to the General Assembly for it to request the Secretary-General to undertake a special study on ways and means of protecting children in armed conflicts. A preliminary text of an optional protocol concerning article 38 of the Convention should be drafted, raising to 18 years the minimum age for direct participation in hostilities. The text could then be given further consideration by the Committee and States parties. The Committee should also recommend to the fourth session of the Preparatory Committee of the World Conference on Human Rights that the topic should be taken up under the item "Contemporary trends in, and new challenges to, the full realization of all human rights of women and men, including those of persons belonging to vulnerable groups".

3. The Committee had also considered that it would be useful to discuss the situation in the former Yugoslavia with the Special Rapporteur of the Commission on Human Rights. It had in fact invited the Special Rapporteur to attend the present session but he had been unable to do so. He should be requested to regard the Convention as one of the points of reference for his report to the Commission. Lastly, there had been general agreement on the importance of the contribution of United Nations agencies and other bodies to the general discussion and on the consequent advisability of communicating the Committee's conclusions to them.

4. Mr. KOLOSOV suggested that the draft text of an optional protocol should be annexed to the Committee's report so that it would reach all States parties and other Members of the United Nations. The Committee itself could not take any formal initiative on an optional protocol, but that could be done at the forthcoming meeting of the States parties.

5. Mr. HAMMARBERG agreed that some Governments would be interested in taking up the question of an optional protocol, but it would be better for the Committee not to spell out any procedure for handling the issue. Any support forthcoming from States parties concerning the major study to be proposed to the General Assembly would also be welcome. In that connection, it would be useful to add to the list of research topics drawn up by the Committee the question of the recovery and social reintegration of child victims of armed conflicts (article 39 of the Convention). Some work on the topic had already been done by NGOs and the time was now ripe for the international community to debate what could be done for such children.

6. The CHAIRMAN agreed that the Committee should not spell out a detailed procedure. Informal contacts might be used as a means of securing the support of States parties.

7. Mr. KOLOSOV agreed with the Chairman's suggestion. It was important to make it clear that the Committee was not competent to propose an optional protocol and that such an initiative could be taken only by States parties. Otherwise, opponents of raising the minimum age to 18 years might be provided with a procedural means of blocking any initiative.

8. Mrs. SANTOS PAIS said that the Committee's report should indicate that the text was only a preliminary draft put forward as one possible solution to the problem. At its previous session the Committee had provided some guidance for States parties on the topic of children in armed conflicts. It might now suggest that States parties should consider, in the light of the draft text, ways of raising the minimum age to 18 years.

9. Mgr. BAMBAREN GASTELUMENDI said that it might be useful to request two studies, one from UNICEF's International Child Development Centre in Florence and another from an NGO. One topic might be the existing instruments of United Nations agencies relating to armed conflicts. It was important to remember that some situations of armed conflict were not under the control of Governments. In Peru, for example, the Government had been unsuccessfully fighting against Shining Path (Sendero Luminoso), which had been trying to build up a positive image for itself in other countries, even though it exploited children for its own purposes. Some machinery was needed to draw such situations to public attention.

10. Mr. HAMMARBERG said that in the modern world instruments of humanitarian law such as the Geneva Conventions and the Optional Protocols did not always cover such situations as, for example, the civil war in Somalia, where there was no effective government. It also happened that States simply disregarded the standards embodied in those instruments. That was the point on which the study should focus: new approaches to the protection of children in armed conflicts.

11. Mr. KOLOSOV said that it was important for the study to be action-oriented rather than merely "technical" and for it to be discussed in the Commission on Human Rights, the Economic and Social Council and the General Assembly, whose recommendations for action would be heeded by Governments. The Committee could of course make its own recommendations, but they would not carry the same weight.

12. The CHAIRMAN said she assumed that a good study would spell out a mechanism for action and make clear who was responsible for what. She asked the representative of the Secretary-General to give examples of precedents.

13. Mr. GOMES DA COSTA said that there appeared to be two types of action that the Committee could take on the question of children in armed conflicts. The first was within the framework of humanitarian law, involving the General Assembly and formal structures for the protection of human rights. The second related to the educational aspect of the Committee's work in its dealings with NGOs, States parties and the international community as a whole.

The issue of children as combatants was extremely important and urgent, and could be handled in the second manner. The Committee should, in its proposal requesting the study and research, propound the view that the use of children as combatants in military activities, whether by Governments or by rebel forces, was a crime. Such a step would be useful and would stamp moral character on work undertaken to protect of the rights of the child.

14. Mrs. KLEIN-BIDMON (Representative of the Secretary-General) pointed out that the Committee's ability to request a report from the Secretary-General through the General Assembly was a unique feature of the Convention. It was therefore up to the Committee to recommend to the General Assembly in its annual report that the study should be widely disseminated and that States parties should adhere to its findings and conclusions.

15. With reference to the draft optional protocol, as Mr. Kolosov had pointed out, it was not within the competence of the Committee to draft it; it should accordingly be the responsibility of a political body, for example the Commission on Human Rights. A Government would have to propose to the Commission that it should be drafted and that would be followed by a decision to start drafting an optional protocol either in a working group of the Commission or in the Sub-Commission on Prevention of Discrimination and Protection of Minorities. The Committee could, however, suggest that such an optional protocol should be drafted.

16. The CHAIRMAN said that, if there was no objection, she would take it that the Committee wanted its report to state that it was not competent to prepare the draft optional protocol, which should be done by a State party, and that it further considered that the study should lead to specific measures in the light of the recommendations contained in it.

17. It was so decided.

18. Mrs. AMODEO (United Nations Children's Fund) asked whether a time frame for the study was included in the recommendation.

19. Mr. HAMMARBERG replied that it was not. Mr. Kolosov had raised some important issues: the letter that had been drafted was, correctly, very brief but it might need some follow-up. It should be made clear that the request was an urgent one. It might be useful to return to the question of the study at the September/October session in order to discuss possible follow-up measures. It might prove desirable to send a representative of the Committee to the General Assembly or to meet the Secretary-General in order explain the study in greater detail. In the meantime, members of the Committee should make it clear to Governments and international organizations that it was important that the initiative should be well received by the United Nations and by the Secretary-General.

20. Mr. HARDER (International Save the Children Alliance), speaking as representative of the organization chairing the subgroup on children in armed conflicts of the NGO group on the Convention, reiterated its readiness to assist the Committee in the study.

21. The CHAIRMAN invited comments on Mr. Hammarberg's suggestion that the letter should be backed up by personal contact.

22. Mrs. EUFEMIO said that such an approach would indeed call attention to the study. Since the request for the study was unprecedented, advice from the representative of the Secretary-General might be useful.

23. Mrs. KLEIN-BIDMON (Representative of the Secretary-General) said that if the Committee adopted the recommendation to the General Assembly, it would then be sent to the relevant authorities in New York, who would make it available as a document of the General Assembly. It would thus be brought to the attention of the Secretary-General.

24. The CHAIRMAN said that personal contact had financial implications. Would the Centre for Human Rights be prepared to finance travel for that purpose.

25. Mrs. KLEIN-BIDMON (Representative of the Secretary-General) said that the Committee's budget was limited; in her opinion, a personal approach was not called for.

26. Mrs. SANTOS PAIS said that the Committee was very serious about the study since the situation regarding children in armed conflicts was an exceptional one. The Committee did not intend using the mechanism for commissioning an excessive number of studies. Secondly, although the Committee was requesting the General Assembly to take a decision at its 1993 session, the fourth session of the Preparatory Committee of the World Conference on Human Rights, and indeed the World Conference itself, would be taking place before that, and should provide the Committee with opportunities to make its concerns known. She was fully confident that since resources would be available for the Committee to be present and active at those meetings, it would be able to convince all concerned that the problems of children in armed conflicts were urgent and important.

27. Mr. HAMMARBERG said that it was often a mistake to be too precise about procedures. It might be a good idea to make pr vision in the agenda of the September/October session for members to report back on progress made regarding the study. It should be possible for members, through contacts with NGOs and States parties, to stress the importance of the study, and if any members were in New York in the spring they could lobby for it too. He proposed that the Committee should authorize the Chairman to decide whether a member of the Committee should have the authority to speak on its behalf at any possible meeting with the Secretary-General.

28. Mgr. BAMBAREN GASTELUMENDI said that he fully supported Mr. Hammarberg's proposal.

29. The CHAIRMAN said that if there was no objection, she would take it that the Committee agreed with Mr. Hammarberg's proposal.

30. It was so decided.

PREPARATORY ACTIVITIES RELATING TO THE WORLD CONFERENCE ON HUMAN RIGHTS (agenda item 5) (continued)

31. Mrs. SANTOS PAIS said that at a previous session, it had been decided that the Committee as a whole should be represented at the World Conference; it might accordingly be useful to reaffirm the Committee's willingness to participate in it. In view of the fact that at its fourth session the Preparatory Committee would for the first time be dealing with substantive issues, and bearing in mind the importance of the final document of the World Conference, the Committee should send two members to represent it; it was important that the rights of the child should be discussed at that level and that the issue of children in armed conflicts should be raised.

32. With regard to the forthcoming regional meeting in Asia, although the Committee was always invited to regional meetings, it had been unable to attend the previous one in Asia for financial reasons. However, the meeting might benefit from representation of the Committee. Concerning the satellite meeting in Strasbourg, it had already been decided that two members of the Committee should attend even though the necessary financial resources would not come from the Committee's budget. Lastly, the Committee needed to decide who should be appointed to the group revising the six prototype studies to be submitted to the World Conference, which were being finalized. The Fourth Meeting of Persons Chairing the Human Rights Treaty Bodies had recognized that the treaty bodies had an essential role to play in that revision process. At least two members of the Committee should be appointed to ensure that the Convention and its new processes of implementation would be reflected.

33. The CHAIRMAN observed that it was difficult to make decisions on representation since the membership of the Committee would be changing shortly.

34. Mrs. KLEIN-BIDMON (Representative of the Secretary-General) pointed out that the budget for the World Conference did not include travel costs for Committee members to attend regional meetings. The only way those costs could be covered would be through savings in their Committee's own budget. As for the World Conference itself, provision had been made for the Chairman or a representative of the Committee to be present so it was not clear how the recommendation that the Committee should be represented fully would be resolved. The Preparatory Committee could perhaps take that decision.

35. Mr. HAMMARBERG said that although no provision had been made in the budget, there was nothing to prevent the Committee from asking for additional funds to be made available.

36. Mrs. SANTOS PAIS said that the Committee had already taken a decision about full representation at the World Conference at its first session, but that decision should be reaffirmed. The presence of the treaty bodies was an essential element at the World Conference and at regional meetings since they could give the benefit of their experience to those who needed it. The Committee should recommend, or should express its readiness for, its members to participate in the regional meetings. Perhaps the resources that had been available for meetings the Committee had not attended could be made available for that purpose.

37. Mrs. KLEIN-BIDMON (Representative of the Secretary-General) said that it would be useful if the Committee would reconfirm its decision taken in September 1991 to be represented fully at the World Conference.

38. The CHAIRMAN said that, if there was no objection, she would take it that the Committee reconfirmed its request to be represented fully at the World Conference, recommended that two of its members should attend the fourth session of the Preparatory Committee and requested that funds should be made available for it to be represented at regional meetings.

39. It was so decided.

40. The Chairman said that it remained for the Committee to decide which members would review the six prototype studies to be submitted to the World Conference on Human Rights and, in that connection, whether those members should be restricted to the five whose terms did not expire in 1993. Members should give the matter some thought with a view to taking a decision at the following meeting.

41. Mgr. BAMBAREN GASTELUMENDI expressed appreciation for the contribution of the NGOs and the secretariat to the Committee's work. He presented a gift to Mrs. Raadi, Secretary of the Committee.

FUTURE STUDIES (agenda item 10) (continued)

42. Mr. HAMMARBERG suggested that the list of 12 topics for possible studies prepared by the secretariat should be made available to the NGOs in order that their input might be used in the Committee's general or specific discussions and formulation of guidelines and general comments. They might even lead to a series of publications. Some of the topics were already being studied by the UNICEF Centre in Florence, the University of Ghent and certain NGOs. He hoped cooperation would be forthcoming for other topics, on an informal basis. Mrs. Santos Pais would be available to discuss any questions that arose on the treatment of the topics.

43. The CHAIRMAN said that the list of topics would be distributed shortly. Speaking for the entire Committee, she endorsed Mgr. Bambaren Gastelumendi's remarks on the contribution of the NGOs and the secretariat.

The public meeting rose at 11.50 a.m.